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C O N F I D E N T I A L SECTION 01 OF 03 BRATISLAVA 000561

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SUBJECT: SOLVING TRANSPETROL WITHOUT THE RUSSIANS

REF: A. BRATISLAVA 453 AND PREVIOUS
[1](#)B. BRATISLAVA 560

Classified By: Ambassador Rodolphe M. Vallee for reasons 1.4 b) and d)

[1](#)1. (C) Summary - The August 15 sale of Yukos Finance to an American investment group, Monte Valle, has reduced Russia's role in the future of the Transpetrol oil pipeline, leaving the Slovak government without its preferred partner. Economy Minister Jahnatek remains confident that any future buyer will have to work with the Slovak Government, but does not expect to know who that partner will be until after the October 31 Dutch Court Decision that is expected to clarify who has control of the former Yukos Finance (YF). Yukos International (YI), headed by the Khodorkovsky-appointed directors, has attempted to take advantage of the change in ownership to shift the legal advantage in their favor, but its aggressive actions appear to have undermined its negotiating position with the GOS without achieving any concrete improvements. Monte Valle has not yet contacted the Slovak government. With the departure of the Russian government from all discussions related to the future of Transpetrol, Jahnatek now recognizes that he will need to work with regional partners if Transpetrol is to remain a viable pipeline in the future. The Slovak Ministry of Foreign Affairs is also taking a more active role in energy-related issues, in large part due to frustration with Minister Jahnatek's handling of the regional aspects of the portfolio. With all of the competing legal claims, both new and old, it is clear that the only way to resolve the sale of the 49 percent Transpetrol stake is through a negotiation by the relevant actors - YI, Monte Valle and the GOS. End Summary.

RUSSIAN INTEREST WANES WITH THE YF SALE

[1](#)2. (C) In an October 4 meeting with the Ambassador, Minister Jahnatek said he was baffled by the uncoordinated actions by the Russian Government and Russian Oil Receiver Eduard Rebgun that led to the sale of YF to Promneftstroy, a subsidiary of the American investment group Monte Valle, in an August 15 auction in Moscow. This sale undermined the deal that Prime Minister Fico reached in Moscow in early May with Putin, whereby the Slovak government would approve a sale of the pipeline to Gazpromneft in return for gaining management control of Transpetrol. It was clear from Jahnatek's questions, as well as those of his top energy advisor in a meeting with Econoff two weeks ago, that they have only limited information on the transaction and no real knowledge of who is behind Monte Valle. The resignation of the Rebgun-appointed directors of YF, Shmelkov and Hoogenbrugge, in August has left a void in the Dutch commercial registry, which means that the GOS has no way of knowing who could

represent YF if it called for a Transpetrol shareholders meeting.

YI OVERPLAYING THEIR HAND

13. (C) Minister Jahnatek's real frustration was directed at the YI directors. The Muse, Stancil and Co. valuation, which was commissioned by YI and presented to Jahnatek in late July, estimates the value of the 49 percent Transpetrol stake between USD 200 and 300 million, well above the USD 111 million that was proposed in August 2006 and that the GOS would be willing to pay. (Comment: Jahnatek's skepticism is justified, as the valuation is based on a best case scenario that includes the completion of a pipeline connection to OMV's refinery in Schwechat, which is only possible with the approval of the Slovak government after overcoming significant environmental concerns. The valuation also does not account for any of the downside risks, such as the Russian government following through on its stated plans to build a new pipeline to Primorsk to the detriment of the Druzhba routes. End comment.) YI further angered Jahnatek by issuing a press release October 1 announcing the results of the valuation. YI has said that the final selling price remains negotiable, and have privately noted that USD 150 would be a fair price, but have not helped themselves by starting with a price that is completely unacceptable to the GOS.

14. (C) After Rebgun's announcement of the August 15 auction of YF, YI initiated a series of legal maneuvers designed to increase their relative control over the YF assets. This included an August 3 letter to Transpetrol requesting the

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company to approve the transfer of shares in the 49 percent stake from YF to YI. Beyond outright approval of their request, which was deemed unlikely, YI envisioned two possible scenarios that would allow them to sell off the Transpetrol stake on their own: 1) The GOS, as the 51 percent shareholder in Transpetrol, would deny YI's request at a general shareholders meeting, thereby invoking a provision in the Slovak Commercial code that would allow Transpetrol to buy back its own shares; or 2) The GOS would not take any action, and after 60 days (YI argues), under the Articles of Association, Transpetrol must hold a general meeting to vote on the request; otherwise, the share transfer would be deemed approved. YI representatives met with Minister Jahnatek in early September to outline their strategy, but they were not able to obtain his support. The GOS never called for a shareholder's meeting, which negated the first scenario, and the GOS lawyers produced a legal opinion that argued that YI did not have the right to complete the share transfer just because a shareholder's meeting was not called. Again, YI appears to have accomplished little beyond further antagonizing Minister Jahnatek.

15. (C) YI continues to pursue other legal avenues in the Netherlands. The Rebgun-appointed YF directors, Shmelkov and Hoogenbrugge, resigned from their positions following the August 15 auction. Upon their resignation and subsequent removal from the commercial registry in the Netherlands, YI was able to block the inclusion of new directors until after the expected October 31 Dutch Court decision that will rule on the legitimacy of the Russian Bankruptcy proceedings and thus whether YI or Monte Valle is the legal owner of YF. (Note: Under Slovak Law only those representatives listed on the relevant commercial registry have the right to represent the respective shareholder at a board meeting. End note.) Transpetrol Board member and YI representative Jan Kridla told econoff on 10/5 that Monte Valle had been unsuccessful in registering their own directors in the Dutch commercial registry. In a separate case initiated in the Dutch Courts, the YI shareholders, Group Menatap and Moravel Investment Limited, are attempting to purchase YF through an auction, a position that was reportedly bolstered at a late September

hearing in the Netherlands.

SAME NATIONALITY, BUT LITTLE COMMUNICATION

16. (C) Monte Valle's purchase of YF through its recently acquired subsidiary Promneftstroi at the August 15 auction for approximately USD 300 million means that the two entities with claims on YF are now both led by Americans. Amcit Steve Lynch is the head of Monte Valle, but the financing for this purchase reportedly comes from two primary sources, institutional investors Renaissance Capital and Richard Dietz, a U.S. hedge fund president. According to Kridla, Lynch and/or his investors reached out to YI before the auction and as recently as the last week of September, but YI was not interested in their proposals and is not currently negotiating with Monte Valle. In fact, at a recent YI board meeting, directors reportedly voted 4 to 1 to reject a specific financial offer from Monte Valle to settle Menatap/Moravel claims, suggesting the YI will stay with a legal strategy designed to invalidate the Russian bankruptcy. YI has been likewise uncomplimentary of Monte Valle in the press and has taken several actions, including publishing the Transpetrol valuation, designed to undermine the new investor's attempts to gain control and eventually sell off the various YF assets.

CHANGING NATURE OF RUSSIAN 'THREAT' REQUIRES A NEW GOS APPROACH

17. (C) For the first time in our numerous meetings with Jahnotek on Transpetrol, the minister did not raise his fear of the potential negative consequences from Moscow if the GOS were to take steps to regain control of Transpetrol. In fact, he made it clear through both his comments and questions that the Russian government had lost interest in the Transpetrol pipeline following the August auction. Jahnotek's new concern is that the proposed new pipeline to Primorsk could make the Southern Druzhba route redundant, a position that Slovakia's neighbors have recognized since the Primorsk project was first announced. He noted that the section of pipeline east of Adria's connection at Sahy (connecting to the Ukrainian section of Druzhba) could be empty in a few years.

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18. (C) The Ministry of Foreign Affairs came to a similar conclusion during meetings with Czech Ambassador-at-large for Energy Security Vaclav Bartuska in late July. Based on these concerns, and the perception that the Economy Ministry was not adequately addressing the threat, Minister Kubis recently established a working group headed by the MFA to deal with regional energy security issues. MFA State Secretary Olga Algayerova heads up the group with the new Director of International Economic Cooperation Jaroslav Chlebo as the primary lead for the group's activities. In an October 1 breakfast with the Ambassador, Algayerova noted the Economy Ministry has the technical expertise but has been unable to address the more complicated regional political issues related to energy security. The group will consist primarily of MFA officials, though Chlebo noted that MFA lacked the necessary expertise and plans to involve other ministries and interested parties in future activities. The first project will be an assessment of Russia's energy policy and its implications for Slovakia.

19. (C) Both the MOE and MFA recognize the need to coordinate with other stakeholders in the Druzhba pipeline, in particular Ukraine and the Czech Republic. Ukrtransnafta and Mero, the Ukrainian and Czech pipeline operators, respectively, have recently sent a proposal to the GOS for a pipeline consortium along the southern Druzhba. The two companies have created a joint venture with the objective of

purchasing the 49 percent Transpetrol stake. The goal would be to return majority control of the pipeline to the GOS, and then to cooperate on projects to diversify supply to the regions through the development of Druzhba (Odessa/Brody), Adria and IKL. The topic will likely be discussed, at least tangentially, during Ukrainian President Yushenko's October 11-12 visit to Bratislava. We have been informed that Igor Kyriushyn, Chairman of Ukrtransnafta, and possibly the Minister of Fuel and Energy, Yuriy Boiko, will accompany Yushenko. Algayerova acknowledged that the GOS should also be speaking with the Hungarians, though she noted that cooperation was made more challenging due to the recent Slovak/Hungarian tensions over the Benes' decrees (Reftel B).

COMMENT

110. (C) The one fact that is becoming clear through the fog of legal challenges surrounding the ownership and eventual sale of Transpetrol is that the three main parties - YI, Monte Valle and the GOS - can only resolve the outstanding issues through a negotiated solution. Although they have certainly not shown it through their recent actions, YI recognizes that the GOS maintains de facto veto control over any sale. Even the expected October 31 Dutch court decision, which all sides hope will provide some legal clarity to who controls YF, will not obviate the need to bring the parties together to complete a sale of Transpetrol. The recent Czech/Ukrainian proposal and MFA involvement are the first signs that the GOS recognizes the changing landscape and is taking a wider view of regional energy security. End Comment.
VALLEE